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October 27, 2003

VIA HAND DELIVERY

Deborah Tate, Chairman
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37219

Re: Petition of Chattanooga Gas Company, Nashville Gas Company, a division of Piedmont Natural Gas Company, Inc. and Atmos Energy Corporation for a Declaratory Ruling regarding the Collectibility of the Gas Cost Portion of Uncollectable Accounts under the Purchase Gas Adjustment ("PGA") Rules
Docket No. 03-00209

Dear Chairman Tate:

Enclosed are the original and thirteen (13) copies of a Motion for Summary Judgment on behalf of the Petitioners (i.e. Chattanooga Gas Company, Nashville Gas Company, and Atmos Energy Corporation), Petitioners' Statement of Undisputed Facts in Support of their on for Summary Judgment and Petitioners' Response in Opposition to Motion for Summary Judgment of the Consumer Advocate and Protection Division.

Sincerely,



D. Billye Sanders
Attorney for Chattanooga Gas Company

DBS/hmd
Enclosures

Respectively submitted this 27th day of October 2003.

Chattanooga Gas Company

By: D. Billye Sanders
D. Billye Sanders

Its Attorney

Waller Lansden Dortch & Davis, PLLC

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Nashville Gas, a Division of Piedmont
Natural Gas Company, Inc.

By: James H. Jeffries IV *by D.B. with permission*
James H. Jeffries IV

Jerry W. Amos

Its Attorneys

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By: Joe A. Conner *by D.B. with permission*
Joe A. Conner

Misty Kelley

Its Attorneys

Baker, Donelson, Bearman & Caldwell, P.C.

1800 Republic Centre

633 Chestnut Street


Chattanooga, TN 37450-1800

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been mailed,
postage prepaid to the following this 27th day of October, 2003.

Shilina B. Chatterjee
Vance Broemel
Assistant Attorneys General
Office of Consumer Advocate and Protection Division
425 Fifth Avenue North
Nashville, TN 37202-0207


D. Billye Sanders

**BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

IN RE:

PETITION OF CHATTANOOGA GAS
COMPANY, NASHVILLE GAS COMPANY,
A DIVISION OF PIEDMONT NATURAL
GAS COMPANY, INC. AND UNITED
CITIES GAS COMPANY, A DIVISION
OF ATMOS ENERGY CORPORATION,
FOR A DECLARATORY RULING
REGARDING THE COLLECTIBILITY
OF THE GAS COSTS PORTION OF
UNCOLLECTIBLE ACCOUNTS UNDER
THE PURCHASED GAS ADJUSTMENT
("PGA") RULES

DOCKET NO. 03-00209

**Petitioners' Statement of Undisputed Facts
in Support of Their Motion for Summary Judgment**

1. The Petitioners seek to recover Gas Costs included in uncollectible accounts through the Purchased Gas Adjustment (PGA) Rules. See Petition for Declaratory Ruling, ¶ 2.

RESPONSE:

2. The "Purchased Gas Adjustment (PGA) Rules are intended to permit the gas company to recover, in timely fashion, the total cost of gas purchased for delivery to its customers and to assure that the company does not over-collect or under-collect Gas Costs from its customers". TRA Rule 1220-4-7-.02(1).

RESPONSE:

3. "Gas Costs' shall mean the total delivered cost of gas paid or to be paid to Suppliers, including, but not limited to, all commodity/gas charges, demand charges, peaking charges, surcharges, emergency gas purchases, over-run charges, capacity charges, standby charges, gas inventory charges, minimum bill charges, take-or-pay charges and take and pay charges, storage charges, service fees and transportation charges and any other similar charges that are paid by the Company to its gas suppliers in connection with the purchase, storage or transportation of gas for the Company's system supply." TRA Rule 1220-4-7-.01(1).

RESPONSE:

4. Currently, there are two components to Petitioners' rates: (i) gas costs that are recovered through the PGA; and (ii) all other costs (i.e. costs of distribution from the city gate to the customer) which are recovered through base rates that are set in a rate case. Petitioners are currently allowed a certain amount in their base rates for uncollectible accounts. This reserve for uncollectible accounts includes the gas portion and the non-gas portion of customer charges. Currently, if actual uncollectible accounts exceed the amount in the reserve in base rates, the Petitioners must absorb the loss. Likewise, if the actual uncollected account is less than the amount in its reserve in base rates, then the Petitioners are allowed to keep the excess. See Petition for Declaratory Ruling, ¶ 3.

RESPONSE:

5. In TRA Docket 01-00802, the TRA allowed the Petitioners to recover the Gas Costs portion of uncollectible accounts for the fiscal period ending in 2001 through the PGA Rules to the extent such costs exceeded the bad debt reserve included in base rates, without a rulemaking proceeding or a waiver of the PGA Rule. See Order attached to CAPD's Memorandum in Support of Motion for Summary Judgment, fn. 3.

RESPONSE:

Chattanooga Gas Company

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Atmos Energy Corporation

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Misty Kelley
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**BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

IN RE:

PETITION OF CHATTANOOGA GAS
COMPANY, NASHVILLE GAS COMPANY,
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FOR A DECLARATORY RULING
REGARDING THE COLLECTIBILITY
OF THE GAS COSTS PORTION OF
UNCOLLECTIBLE ACCOUNTS UNDER
THE PURCHASED GAS ADJUSTMENT
("PGA") RULES

DOCKET NO. 03-00209

**Petitioners' Response in Opposition to Motion for Summary Judgment of
the Consumer Advocate and Protection Division**

Come now Chattanooga Gas Company ("Chattanooga Gas"), Nashville Gas Company, a Division of Piedmont Gas Company, Inc. ("Nashville Gas") and Atmos Energy Corporation ("Atmos") (collectively, the "Petitioners") and respond to the Motion for Summary Judgment filed in this docket by the Consumer Advocate and Protection Division ("CAPD"). For the reasons below, the CAPD's Motion for Summary Judgment should be denied and the Motion for Summary Judgment of the Petitioners should be granted.

1. Standard for Summary Judgment

Tennessee case law clearly sets forth the standard for granting a summary judgment. A party seeking a summary judgment bears the burden of demonstrating that no genuine dispute of material fact exists *and that it is entitled to a judgment as*

a matter of law. Lett v. Collis Foods, Inc., 60 S.W.3d 95, 98 (Tenn. Ct. App. 2001); Shadrick v. Coker, 963 S.W.2d 726, 731 (Tenn. 1998); Belk v. Obion Co., 7 S.W.3d 34, 36 (Tenn. Ct. App. 1999). In order to be entitled to a judgment as a matter of law, the moving party must either affirmatively negate an essential element of the non-moving party's claim or establish an affirmative defense that conclusively defeats the non-moving party's claim. Byrd v. Hall, 847 S.W.2d 208, 215 n.5 (Tenn. 1993); Cherry v. Williams, 36 S.W.3d 78, 82-83 (Tenn. Ct. App. 2000). Once the moving party demonstrates that it has satisfied the requirements imposed by T.R.C.P. 56, the non-moving party must demonstrate how these requirements have not been satisfied. Nelson v. Martin, 958 S.W.2d 643, 647 (Tenn. 1997). If the party moving for summary judgment successfully negates a claimed basis for the action, the non-moving party may not simply rest upon the pleadings, but must offer proof to establish the existence of the essential elements of the claim. Staples v. CBL & Associates, Inc., 15 S.W.3d 83, 89 (Tenn. 2000). Mere conclusory generalizations will not suffice. Davis v. Campbell, 48 S.W.3d 741, 747 (Tenn. Ct. App. 2001).

The CAPD's motion should be denied for several reasons. First, the CAPD failed to submit with its motion a separate concise statement of undisputed material facts as required by Rule 56.03 of the Tennessee Rules of Civil Procedure. Instead, on page two of its Memorandum, the CAPD sets forth 4 items that it characterizes as "material facts." None of the 4 items is a "fact"; each is a conclusion of law. The Petitioners dispute each of the 4 conclusions of law that are mischaracterized as facts. In the Petition itself (paragraphs 2, 4 and paragraph 3 of the amendment to the Petition) and at the July 22, 2003 Pre-hearing Conference, the Petitioners indicated their position that the uncollectible Gas Costs are appropriately

recoverable through the PGA. (Transcript, July 22, 2003 Pre-hearing Conference at pg. 5.)

Even if the CAPD had listed legitimate undisputed facts with its motion, the CAPD would still not be entitled to a judgment as a matter of law. The CAPD has not affirmatively negated an essential element of the Petitioners' claim or established an affirmative defense that conclusively defeats the Petitioners' claim. Since the CAPD asserts that there are no genuine issues of material fact, issue 2 on the issues list, attached as Exhibit 1,¹ is now moot.²

Alternatively, the CAPD's motion should be denied because it fails to comply with Tennessee Rule of Civil Procedure 56.03. Because there is nothing in the pleadings, discovery, or record to support the CAPD's alleged "facts" listed as undisputed, the CAPD fails to provide a specific citation in support thereof. Rule 56.03, however, expressly requires that "[e]ach fact shall be supported by a specific citation to the record." T.R.C.P. 56.03. Tennessee Rule of Civil Procedure 56.04 mandates that summary judgment shall only be rendered "[s]ubject to the moving party's compliance with Rule 56.03" T.R.C.P. 56.04. Consequently, it is improper to even consider CAPD's motion for summary judgment. See Seals v. Tri-State Defender, Inc., 1999 WL 628074 at *3 (Tenn. Ct. App. Aug. 16, 1999) ("The moving party failed to comply with Rule 56.03, and therefore, the trial court erred in

¹ Exhibit 1 sets forth the issues that were established at the Pre-hearing Conference in the docket on July 22, 2003. See Transcript pp. 16-17 and p.19.

² Although Petitioners agree that there are no material disputed facts, the CAPD is inconsistent in its position in this docket inasmuch as it argues that there is no dispute of material fact, yet it continues to engage in discovery after filing its Motion for Summary Judgment, the basis of which is that there is no dispute of material fact.

granting summary judgment.”);³ see also Banks, Entman on Tennessee Civil Procedure (1999) (interpreting Rule 56.04 to require the court to refuse to grant or even consider a motion for summary judgment if the moving party has not complied with Rule 56.03).

The accurate interpretation of the law and how that law applies to the present facts is the issue in this case. In Docket No. 01-00802, the TRA interpreted the law to allow the recovery that the Petitioners are currently seeking in this Docket. The primary difference between that case and the present case is that the Petitioners are asking for this treatment on a continual basis as opposed to for one fiscal year. Based upon the law, the Petitioners’ Motion for Summary Judgment should be granted.

Since the application of the PGA Rules involves accounting mechanisms that are better explained by an expert accounting witness, rather than by a lawyer in a brief, the Petitioners had anticipated that they would present an expert witness at the hearing to explain the proposed treatment of the Gas Costs portion of uncollectible accounts under the existing PGA Rule. However, in support of Petitioners’ position that the CAPD is not entitled to summary judgment as a matter of law, and in support of Petitioners’ own Motion for Summary Judgment, the affidavit of Archie Hickerson is attached as Exhibit 2.

2. **The intent of the PGA Rules is to permit the gas companies to recover their total Gas Costs. The Petition for Declaratory Ruling is not moot and is properly before the TRA pursuant to T.C.A. § 65-2-104, T.C.A.**

³ All unpublished cases cited in Petitioners’ Response are attached hereto.

§ 4-5-223 and TRA Rule § 1220-1-2.05,⁴ inasmuch as the Petitioners seek a ruling with respect to the applicability of the PGA Rules to their factual circumstances.

⁴ T.C.A. § 65-2-104 states:

On the petition of any interested person, the authority may issue a declaratory ruling with respect to the applicability to any person, property, or state of facts of any rule or statute enforceable by it or with respect to the meaning and scope of any order of the Authority. A declaratory ruling, if issued after argument and stated to be binding, is binding between the authority and the petitioner on the state of facts alleged in the petition, unless it is altered or set aside by a court in a proper proceeding. Such rulings are subject to review in the chancery court of Davidson County in the manner hereinafter provided for the review of decisions in contested cases. The authority shall prescribe by rule the form for such petitions and the procedure for their submissions, consideration, and disposition.

T.C.A. § 4-5-223 states:

(a) Any affected person may petition an agency for a declaratory order as to the validity or applicability of a statute, rule or order within the primary jurisdiction of the agency. The agency shall:

(1) Convene a contested case hearing pursuant to the provisions of this chapter and issue a declaratory order which shall be subject to review in the chancery court of Davidson County, unless otherwise specifically provided by statute, in the manner provided for the review of decisions in contested cases; or

(2) Refuse to issue a declaratory order, in which event the person petitioning the agency for a declaratory order may apply for a declaratory judgment as provided in § 4-5-224.

(d) Each agency shall prescribe by rule the form of such petitions and the procedure for their submission, consideration and disposition.

TRA Rule § 1220-1-2.05 states:

(1) Pursuant to T.C.A. §§ 4-5-223 and 65-2-104, any affected person may petition the Authority for a declaratory order as to the validity or applicability of a statute, rule or order within the primary jurisdiction of the Authority.

(2) ...

(3) Petitions for declaratory orders shall be filed in the same form and manner as other petitions, as specified in these rules. Any such petition shall state the factual circumstances warranting a declaration by the Authority; the specific statute, rule or order as to which a declaration is sought; how the application of that statute, rule or order, affects or threatens to affect the petitioner; and a statement of the declaration requested.

(4) The Authority may allow persons other than the petitioner to file statements as to whether the Authority should commence a contested case, or refuse to issue a declaratory order, as provided in T.C.A. § 4-5-223. Any such statements shall be served on all parties.

Contrary to the assertion of the CAPD that the Rules do not allow inclusion of uncollectible accounts, the costs of gas purchased for delivery remain "Gas Costs"⁵ regardless of whether they are collected or uncollected and they are therefore, recoverable under the PGA Rules.

The TRA agreed with the Petitioners' interpretation of the PGA Rules in Docket No. 01-00-802 when it allowed recovery of the Gas Costs portion of uncollectible accounts for the fiscal year ending 2001 through the PGA Rules and stated in its Order: "This measure is consistent with the intent of Authority Rule 1220-4-7-.02, which allows recovery of gas costs."⁶ Consequently, there is clear TRA precedent for the interpretation that the Gas Costs portion of uncollectible accounts is recoverable under the PGA Rules. As stated in the affidavit of Archie Hickerson, it has not been the practice to use the PGA mechanism for the recovery of uncollectible Gas Costs, as such Gas Costs have been collected through an allowance for uncollectible accounts, which is included in base rates.⁷ However, the current practice of including an allowance in base rates means that a company will in fact under-collect or over-collect these Gas Costs because they cannot be estimated with

⁵ TRA Rule 1220-4-7-.01 defines Gas Costs as

the total delivered cost of gas paid or to be paid to Suppliers, including, but not limited to, all commodity/gas charges, demand charges demand charges, peaking charges, surcharges, emergency gas purchases, over-run charges, capacity charges, standby charges, gas inventory charges, minimum bill charges, take-or-pay charges and take and pay charges, storage charges, service fees and transportation charges and any other similar charges that are paid by the Company to its gas suppliers in connection with the purchase, storage or transportation of gas for the Company's system supply.

⁶ Order in Docket No. 03-00209, p. 5.

⁷ Affidavit of Archie Hickerson at p. 11.

complete accuracy, particularly if a company does not file frequent rate cases and gas prices are volatile. The Petitioners are therefore requesting a change in the practice regarding Gas Costs recovery, which the TRA has previously determined is permitted under the current PGA Rules. Contrary to the statement of the CAPD on p. 4 of its Memorandum, the Petitioners recognize that a portion of uncollectible Gas Costs is included in base rates and propose in the Petition to recover through the PGA Rules only the uncollected Gas Costs in excess of the level included in the base rates.

It cannot be emphasized enough that the intent of the Rules as stated in the body of the Rules is “to permit the company to recover in a timely fashion the total cost of gas purchased for delivery to its customers and to assure that the Company does not over-collect or under-collect Gas Costs from its customers.” TRA Rule 1220-4-7-.02 (emphasis added). The pre-hearing officer stated in the Pre-Hearing Conference on July 22, 2003 that, “I would like for us to focus on the intent of these rules,...That’s going to be our kind of operative framework for these issues.”⁸ Therefore, the intent of the Rules provides the framework for this agency’s consideration of the parties’ motions.

Page 4 of the CAPD’s Memorandum provides: “The rule states that only gas costs billed are to be included in the PGA and specifically uses the word ‘billed’”. The CAPD is incorrect. As stated above, Gas Costs subject to recovery through the PGA is defined in Rule 1220-4-7-.01 (See footnote 5). The definition of Gas Costs does not use the term “billed” as stated by the CAPD, nor does the intent section of the Rules use the terms “over-bill” or “under-bill.” The PGA rule clearly states that

⁸ Pre-hearing Officer Questell, July 22, 2003 Transcript, pp. 4-5.

the intent of the rule is for the gas companies not “over-collect or under-collect” from their customers the cost of gas incurred. See TRA Rule 1220-4-7-.02 (emphasis added)

The Petitioners could have merely filed their PGA tariffs including such costs, but instead seek confirmation of their interpretation of the PGA rules through their Petition for Declaratory Ruling before filing such tariffs. This is a clear case of seeking a ruling as to the applicability of a state of facts (the collectability of the Gas Costs portion of uncollectible accounts) to a rule enforceable by the TRA (the PGA Rules). A dispute of material fact is not required for the TRA to issue a declaratory ruling as requested.

3. **A waiver of the PGA Rules is not necessary to allow recovery of the Gas Costs portion of uncollectible accounts.**

In TRA Docket No. 01-00802, the TRA allowed recovery of the Gas Costs portion of uncollectible accounts without a waiver of the Rules.⁹ Although the request was made in the context of a period of unusually high bad debt, the TRA did not waive the Rules in granting the relief requested by the Petitioners. Furthermore, modification of the actual cost adjustment (“ACA”) portion of the Rules (1220-4-7-.03(1)(c)(2)) was not required in Docket No. 01-00802, nor is it required in this Docket. As stated on p. 15 of Mr. Hickerson’s Affidavit and evidenced on p. 6 of the TRA’s Order in Docket No. 01-00802, the Petitioners may recover these Gas Costs by adding the uncollected portion to the Deferred Gas Cost account, then applying the existing ACA formula. The ACA is still the difference between (1)

⁹ Order in Docket No. 03-00209, p. 5.

revenues billed customers by means of the Gas Charge Adjustment and (2) the cost reflected in the Deferred Gas Cost account.

Not only is there a precedent for the recovery of uncollectible Gas Costs through the PGA without waiving the Rules, there is precedent for recovery of other costs through the ACA of the PGA Rules without a waiver or change of the PGA Rules or modification of the formulas under the PGA Rules. The TRA Staff has consistently recommended and the TRA has consistently approved recovery through the PGA/ACA mechanism of under-collection of margin through the Weather Normalization Adjustment (WNA) factors. For examples, see list of dockets in Exhibit 3. The Petitioners respectfully request the TRA to take judicial notice of these dockets.

The WNA under-collections were not Gas Costs as defined by the PGA Rule, and yet they have been recovered through the PGA with approval of the TRA without waiver of the Rules, modification of formulas, or a rule-making proceeding. Similarly, the Gas Costs portion of uncollectible accounts can be included in the Deferred Gas Cost account without modifying the PGA formula defined in TRA Rule 1220-4-7-.03(c)2, without waiver of the Rules and without a rulemaking proceeding.

It is significant to note that the CAPD also took the position that electric power used to liquefy natural gas could be properly included in the cost of gas and recovered through the commodity gas surcharge element of the PGA Rule. (See Affidavit of Daniel W. McCormac in Nashville Gas rate case Docket No. 99-00994, copy attached as Exhibit 4.) If power costs for liquefying natural gas are Gas Costs, surely purchased gas that has been billed to customers, but is uncollectible, constitutes Gas Costs.

Finally, if waiver of a rule were required, the standard would not be “only upon evidence of extraordinary circumstances”¹⁰ as suggested by the CAPD. TRA Rule 1220-1-1-.05 provides the standard for waiver of TRA rules, as follows:

For good cause, including expediting the disposition of any matter, the Authority may waive the requirements or provisions of any of these rules in a particular proceeding, on motion of a party or on its own motion, except when a rule embodies a statutory requirement. The Authority shall state the basis of any such waiver and may impose conditions or limitations consistent with the basis for the construction of these rules.

Therefore, contrary to the argument of the CAPD, the TRA is free to affirm the Petitioners’ interpretation without a waiver of any rules.

4. **The interpretation of the PGA Rules sought by the Petitioners does not require a rule making proceeding.**

To the extent there is a need to modify the PGA formulas, the Rule itself provides that the formulas may be modified from time to time to carry out the intent of the PGA Rules. See TRA Rule 1220-4-7.03(1)4. However, as stated above, the Gas Costs portion of uncollectible accounts has been recovered through the PGA without a modification to the formula or the Rules. (See Order Docket No. 01-00802)

There is, however, a precedent for modification of the formulas without initiation of a rule making proceeding. The formula included in Rule 1220-4-7-.03 (Computations and Application of the Purchased Gas Adjustment) was modified for Chattanooga Gas Company when the PGA Rules became effective. See Affidavit of Archie Hickerson at pp. 14-15. As stated in Rule 1220-4-.03(1)(a)4, the formulas set forth in the Rules are not designed for use with two-part, demand/commodity rate schedules. However, prior to the adoption of the current PGA rules, Chattanooga

¹⁰ CAPD Memorandum, p. 6

Gas Company had implemented the two-part, demand/commodity Rate Schedule I-1 (Commercial and Industrial Large Volume Firm Service.) As a result, the formulas as presented in the PGA Rules could not be applied by Chattanooga Gas Company at the time the Rules were adopted. The Public Service Commission did not initiate a rule-making proceeding to modify the formula to provide for the two-part rate, but allowed the formulas to be modified as permitted under Rule 1220-4-.03(1)(a)4 in order to carry out the intent of the Rules. The two-part rate schedule has continued and remains in effect today.

Based upon the foregoing, the Petitioners respectfully request that the TRA deny the CAPD's Motion for Summary Judgment and grant Petitioners' Motion for Summary Judgment and enter an Order declaring that the Gas Costs portion of uncollectible accounts is recoverable by the Petitioners through their PGAs in the manner set forth in their Petition or pursuant to procedures consistent with the intent of the PGA Rules.

Respectively submitted this 27th day of October 2003.

Chattanooga Gas Company

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Nashville Gas, a Division of
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Inc.

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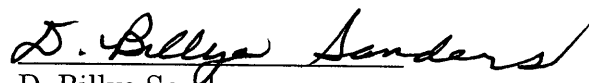

D. Billye Sanders

Exhibit 1

Issues List

1. Whether the gas costs portion of uncollectible accounts is recoverable through the Tennessee Regulatory Authorities' Purchased Gas Adjustment ("PGA") rules and regulations and PGA procedures?
 - a. Whether the inclusion of the gas costs portion of uncollectible accounts in the Purchased Gas Adjustment ("PGA") requires a change in the Actual Cost Adjustment ("ACA")?
2. Whether inclusion of the gas costs portion of uncollectible accounts in the Purchased Gas Adjustment ("PGA") also requires inclusion of forfeited discounts in the Purchased Gas Adjustment ("PGA") and the Actual Cost Adjustment ("ACA")?

Exhibit 2

Affidavit of Archie Hickerson

**BEFORE THE
TENNESSEE REGULATORY AUTHORITY**

**AFFIDAVIT OF
ARCHIE R. HICKERSON**

**IN RE: PETITION OF CHATTANOOGA GAS COMPANY, NASHVILLE GAS
COMPANY, A DIVISION OF PIEDMONT NATURAL GAS COMPANY, INC.,
AND ATMOS ENERGY CORPORATION FOR A DECLARTORY RULING
REGARDING THE COLLECTIBILITY OF THE GAS COSTS PORTION OF
UNCOLLECTIBLE ACCOUNTS UNDER THE PURCHASED GAS
ADJUSTMENT ("PGA") RULES**

DOCKET NO. 03-00209

1 **I, Archie R. Hickerson, being first duly sworn make oath as follows:**

2 **Q. Please state your name, title and business address.**

3 A. My name is Archie R. Hickerson, and I am the Manager - Rates, AGL
4 Services Company, and my business address is Ten Peachtree Place, Suite
5 1000, Atlanta, Georgia 30309.

6 **Q. Are you over 18 years of age?**

7 A. Yes.

8 **Q. What is the basis for your knowledge of the information contained in**
9 **this affidavit?**

10 A. I make this affidavit based upon my own personal knowledge.

11 **Q. What is your educational background and professional experience?**

12 A. See Exhibit A, to this affidavit which contains information about my
13 educational background and professional experience. Exhibit A is a true and
14 correct copy of my curriculum vitae.

15 **Q. Please summarize your educational and professional background?**

16 A. I have a B. S. Degree from Austin Peay State University with majors in
17 accounting and math. In 1974, I began work with the State of Tennessee as
18 an Auditor for the Comptroller. In 1976, I moved to the Public Service
19 Commission as a Financial Analyst. I was later promoted to Assistant
20 Director of the Accounting Division and subsequently to Deputy Director of
21 the Utility Rate Division. In 1994, several members of the Commission's
22 Utility Rate Division and I moved to the Consumer Advocate Division when it

1 was formed in the Office of the Attorney General. I remained the Director of
2 the Consumer Advocate Staff until August 2000. Since September 2000, I
3 have been employed by AGL Resources as Manager-Rates.

4 **Q. Are you licensed as a Certified Public Accountant?**

5 A. Yes. I have met the requirements of the Tennessee State Board of
6 Accountancy, and I am licensed as a Certified Public Accountant in
7 Tennessee.

8 **Q. Are you a member of any professional associations?**

9 A. Yes. I am a member of the American Institute of Certified Public
10 Accountants. While I was employed by the Public Service Commission I
11 served as a member of the National Association of Regulatory Utility
12 Commissioners ("NARUC") Subcommittee on Accounts, the NARUC
13 Subcommittee on Communications, and the Southern Accounting Taskforce.
14 While employed by the Consumer Advocate Division, I was a member of the
15 National Association of State Utility Consumer Advocates' (NASUCA)
16 Accounting and Tax Committee, and was an observer member of the NARUC
17 Subcommittee on Accounts.

18 **Q. While employed by the Public Service Commission, did you appear**
19 **as an expert witness on behalf of the Commission Staff?**

20 A. Yes. I appeared and provided testimony concerning utilities investment, cost
21 of operation, rate of return, over all cost of service, rate design and
22 accounting issues.

1 Q. Did you also appear as an expert witness while employed by the
2 Consumer Advocate Division?

3 A. Yes.

4 Q. Briefly summarize the purpose of your affidavit.

5 A. The purpose of my affidavit is to address the treatment, under TRA Rule
6 1220-4-7, Purchased Gas Adjustment Rules, of the uncollected gas costs that
7 occur as the result of customer defaults on their accounts.

8 Q. Do you know when the current PGA rule was adopted?

9 A. Yes. In January 1986, Chattanooga Gas Company, Nashville Gas Company,
10 Tennessee-Virginia Energy Corporation, and United Cities Gas Company
11 petitioned the Tennessee Public Service Commission to institute a
12 rulemaking proceeding for the purposes of revising Rule No. 1220-4-1-.12 and
13 proposed revised wording of the Purchased Gas Rule. The Commission
14 initiated Docket U-86-7405. Later the matter was transferred to rule making
15 Docket G-86-1. In January 1990, the Petitioners filed a revised petition and
16 revised the proposed wording of the PGA Rule. After a recess of the hearing
17 scheduled for this matter on February 15, 1990, the parties informed the
18 Commission that they had reached an agreement. In accordance with that
19 agreement, revised wording for the PGA rule was submitted to the
20 Commission. On April 11, 1990 the Commission issued an order adopting the
21 revised wording on an experimental basis for two years.

1 After the two-year experimental period, minor revisions were made (for
2 example, the definitions were moved to be beginning of the Rule, the
3 paragraphs were renumbered in accordance with the Secretary of State's
4 numbering procedures, the number of days provided for the Commission to
5 audit the annual filing was increased from 90 to 180 days, and the provision
6 for an annual prudence review was added) and the Rule was made final.

7 **Q. By whom were you employed and what was your position when the**
8 **present PGA Rule was adopted?**

9 A. I was the Deputy Director of the Tennessee Public Service Commission's
10 Accounting Division in 1990 when the PGA Rule was adopted in
11 substantially the form in which it exists today.

12 **Q. Why was the PGA Rule revised at that time?**

13 A. Although the previous Rule had worked well under the conditions that
14 existed when adopted in 1970, changes in the gas industry had occurred that
15 resulted in the need for revision. As a result, the natural gas utilities
16 petitioned the Commission for revised wording.

17 **Q. In what way did the gas utilities seek to change the PGA rule?**

18 A. The prior PGA rule had been developed during the period when the local
19 distribution company's ("LDC's") only source of gas was from an interstate
20 pipeline whose rates were regulated by the Federal Power Commission
21 ("FPC") and later the Federal Energy Regulatory Commission ("FERC"). The
22 Rule in effect, mimicked to a great degree the procedure used in a rate case.

1 When a pipeline increased its rates, the increased cost was computed based
2 on the volume of gas purchased during an historic twelve-month computation
3 period. This computation period corresponded to the test period concept in a
4 traditional rate case. Using the volume of gas sold during the same period,
5 rate adjustments were computed that should have allowed the utility the
6 opportunity to recover the increased cost in the future. The adjustments
7 were based on the assumption that sales and purchase volumes in the future
8 would be the same as during the computation period.

9 Similarly, if the pipeline reduced its rates, an adjustment was
10 computed using the same process to pass the reduction to the customers. If
11 the volume of gas purchased and/or sold during the future was different from
12 the volume experienced during the computation period, the LDC could over or
13 under recover the actual gas costs incurred. There was no provision to insure
14 that the LDC recovered no more than its cost of gas, and no provision to
15 insure that the LDC recovered all of its gas costs.

16 The new rule proposed by the LDCs reflected the change in the natural
17 gas industry and allowed for the cost of gas, the cost of transportation, the
18 cost of storage, and other costs paid to suppliers to be recovered through the
19 PGA Rule. The recovery was not restricted to amounts paid to interstate
20 pipelines. The proposed rule also provided a balancing account that insured
21 that the LDCs collected 100% of such gas costs and no more through the
22 PGA/Actual Cost Adjustment ("ACA") mechanism.

1 **Q. What was the Public Service Commission Staff's position relative to**
2 **the revision of the Rule?**

3 A. Initially, the Public Service Commission Staff opposed the utilities' proposed
4 wording and proposed alternative wording. In its report issued in Dockets U-
5 86-7442 and G-86-1 in October 1987, the Commission Staff objected to the
6 adoption of the proposed rule and stated:

7 Under the proposed "zero-based" Purchased Gas
8 Adjustment rule the utilities would effectively maintain a
9 balancing account that would track the total cost of purchased
10 gas and the revenue collected to recover such cost. Any over or
11 under collection would be refunded or billed to the customer in
12 future periods.

13 The impact of this proposal is to shift the risk of the
14 utilities gas procurement practices from the stockholder to the
15 customer. For example, if a utility contracted for excess demand
16 or storage facilities, the customer would automatically be
17 charged for this excess cost. In addition, if the utility failed to
18 take advantage of the low spot market gas price the customer
19 would pay an excess amount for gas; the proposed rule provides
20 no incentive for the utility to seek out lower cost gas. While the
21 proposed rule would flow the benefit of a utility's efficient gas
22 procurement procedure to the customer, the risk to the
23 customers outweigh the possible benefits.

24
25 In addition, I filed testimony in support of the Commission Staff's position in
26 Docket G-86-1.

27 **Q. Whose position did the Public Service Commission adopt?**

28 A. As I previously explained, after the petitioners, the Commission Staff, and
29 Associated Valley Industries (AVI), pre-filed their testimony, the parties
30 settled and jointly proposed and submitted wording to the Commission that

1 was acceptable to all parties. The Public Service Commission adopted this
2 revised wording on an experimental basis effective July 1, 1990 for two years.

3 The revised wording adopted by the Commission, included the intent
4 as stated at 1220-4-7-.02 GENERAL PROVISIONS

5 (1) These Purchased Gas Adjustment (PGA) Rules are intended to permit
6 the company to recover, in timely fashion, the total cost of gas
7 purchased for delivery to its customers and to assure that the
8 Company does not over-collect or under-collect Gas Costs from its
9 customers.

10
11 In the order adopting the experimental rule, the Commission also
12 directed the Staff and the LDCs to jointly select a qualified consultant to
13 evaluate the prudence of any gas costs included in the PGA rider. This
14 provision was incorporated into the permanent rule that is currently in effect.

15 The primary content of the rule remains the same today as it did when
16 the revised rule was adopted in 1990.

17 **Q. What is the intent of Purchased Gas Adjustment Rule?**

18 **A. As stated in the Rule at 1220-4-7-.02 GENERAL PROVISIONS:**

19 (1) These Purchased Gas Adjustment (PGA) Rules are intended
20 to permit the company to recover, in timely fashion, **the total**
21 **cost of gas purchased for delivery** to its customers and to
22 assure that the Company does not **over-collect** or **under-**
23 **collect** Gas Costs from its customers. (Emphasis added.)

24 (2) **These Rules are intended to apply to all Gas Costs**
25 **incurred** in connection with the purchase, transportation
26 and/or storage of gas purchased for general system supply,
27 including, but not limited to, natural gas purchased from
28 interstate pipeline transmission companies, producers, brokers,
29 marketers, associations, intrastate pipeline transmission
30 companies, joint ventures, providers of liquefied natural gas
31 (LNG), liquefied petroleum gas (LPG), substitute, supplemental

1 or synthetic natural gas (SNG), and other hydrocarbons used as
2 feed-stock, other distribution companies and end-users,
3 whether or not the Gas Costs are regulated by the Federal
4 Energy Regulatory Commission and whether or not the
5 provider of the gas, transportation or storage is affiliated with
6 the Company. (Emphasis added.)
7

8 **Q. Did you consider the inclusion of wording related to the intent to be**
9 **a major change in the rule at the time it was proposed in 1990?**

10 **A.** Yes. As I explained above, the Commission Staff considered the stated intent
11 to be the primary issue in Docket G-86-1. On page 2 of my pre-filed
12 testimony in Docket G-86-1, I stated: "The primary issue in this matter is
13 rather simple. Should the local gas distributors (LDCs) be guaranteed total
14 recovery on approximately 60% of their total cost?"

15 **Q.** Is it correct that you, as Deputy Director of the Tennessee Public
16 Service Commission's Accounting Division understood that the
17 wording agreed to by parties and adopted by the Commission
18 provided that the utilities would be allowed to collect through the
19 PGA 100% of the cost of gas purchased for delivery to its customers?

20 **A.** Yes. That was my understanding at the time that the LDC's were requesting
21 they be guaranteed the collection of 100% of the prudently incurred gas costs.
22 During the rule making process this intent was not modified, and the Rule
23 that was ultimately adopted included the specific language regarding that
24 intent. It is my understanding today that the intent of the Rule is to provide
25 that the LDC's collect 100% of their prudently incurred gas costs and insure

1 that the LDCs collect through the PGA no more than 100% of the prudently
2 incurred gas costs.

3 **Q. Would you explain what you mean when you said that the intent was**
4 **to insure that the LDCs collect no more than 100% of the prudently**
5 **incurred gas cost.**

6 **A.** Prior to the revision of the PGA rule in 1990, gas expense was included in the
7 cost of service during rate proceedings. The PGA was then used to track both
8 increases and decreases in the rate paid for gas between rate cases. If the
9 rate for gas increased above the level used in the most recent rate case, the
10 gas utility was allowed to increase the PGA factor; if the pipeline rate for gas
11 declined, the utility was required to file a reduced PGA factor.

12 The cost of gas included in the rate case was based on an estimate of
13 volumes that would be purchased and the rate to recover the cost was based
14 on the estimated volumes to be sold. If actual volumes purchased or sold
15 differed from the volume used to compute the expense and rates in the rate
16 case, the utility could either under-recover or over-recover the gas costs.
17 Similarly a change in the customer mix (firm or interruptible) could result in
18 either an over or under recovery.

19 Similarly, the computations of the PGA adjustments between rate
20 cases were also based on historic purchase and sales volumes. If actual
21 volumes were different from those used to compute the PGA factors, the
22 utility could again over-recover or under-recover the actual gas costs. Under

1 that procedure, the utility bore the risk of under recovery, but, depending on
2 the circumstances, could also recover more than the actual gas costs.

3 **Q. How did the adoption of the revised PGA Rule wording, change this**
4 **process?**

5 A. The revised Rule provides that the company does not **over-collect** or **under-**
6 **collect Gas Costs** from its customers. In most recent rate cases, all gas
7 costs with the exception of those related to the uncollectible accounts have
8 been removed from the utility's cost of service. The Authority (or previously
9 the Commission) establishes base rates during the rate proceeding to recover
10 distribution costs, while the rates to recover gas costs have been established
11 through the PGA mechanism.

12 Under the current rules each gas utility must at least annually file a
13 reconciliation of gas costs incurred and gas costs recovered. Any difference is
14 recovered or refunded through the Actual Cost Adjustment component of the
15 PGA. These annual reconciliations are subject to audit by the TRA Staff.
16 Such audits, if adopted by the TRA, may require additional adjustments to
17 the PGA.

18 **Q. Prior to the 1990 revision, did the PGA Rule include the same or**
19 **similar wording addressing the intent?**

20 A. No. This was a major change in the Rule. Prior to the revision, the utilities
21 were allowed to pass on wholesale gas rate increases approved by the Federal
22 Energy Regulatory Commission ("FERC"), previously the Federal Power

Commission ("FPC"), and required to pass on rate reductions approved by the FERC or FPC, but there was no stated intent that there be a match of gas costs incurred and the related revenue collected as stated in the current Rule. There was no mechanism included in the Rule to insure such a match. There were no required reconciliations and the Commission Staff was not required to audit or otherwise review the gas costs and related collections as currently required.

Q. When the utility bills a customer for gas consumption, has the utility collected the gas cost in accordance with the PGA rule?

A. No. The utility has not collected for the gas consumed and will not until actual receipt of the payment.

Q. If the customer fails to pay the bill and the bill is written off as a bad debt, has the utility collected for the gas consumed?

A. No. While in this example the utility would have billed the customer, the utility would not have collected for the gas consumed as provided in the Rule.

Q. What are the joint petitioners requesting in this proceeding?

A. While Chattanooga Gas Company, Atmos Energy, and Nashville Gas Company (a Division of Piedmont Natural Gas Company) believe that it is clear that the Rule provides that the gas utilities are to collect 100% of the gas costs, and that we could have included the bad debt portion of gas costs in the ACA without a prior TRA ruling on the issue, the companies have requested that the Authority confirm that the un-recovered gas costs portion

1 of uncollectible accounts is recoverable through the PGA/ACA mechanism by
2 requesting a declaratory ruling.

3 **Q. Does the Rule include formulas for computing the PGAs for the**
4 **various classes of customers?**

5 A. Yes, the formulas for the PGAs are included in the rule at 1220-4-7-.03,
6 Computation and Application of the Purchased Gas Adjustment (PGA).

7 **Q. Do the formulas specifically include specific components for the gas**
8 **portion of uncollectible accounts?**

9 A. No. The formulas do not have specific "bad debt" components. However, the
10 TRA previously allowed recovery of the gas costs portion of uncollectible
11 accounts in TRA Docket No. 01-00802 by using the existing Actual Cost
12 Adjustment ("ACA") formula that is set forth in Section 1220-4-7-.03(1)(c)1 of
13 the PGA Rule. In that Docket the TRA allowed the gas companies (which
14 are the same Petitioners in the current Docket) to place the gas costs portion
15 of the uncollectible accounts in the Deferred Gas Cost account and to recover
16 the uncollected portion through the ACA adjustment. The Petitioners are
17 requesting the same accounting treatment in this docket. The PGA formula
18 was not modified in Docket No. 01-00802 and likewise it would not have to be
19 modified in the present Docket.

20 In addition, the formulas as printed in the Rule do not include specific
21 components for other costs that are routinely recovered through the PGA.

1 **Q.** Can you provide some examples of costs that are routinely recovered
2 but do not have specific components in the PGA formula?

3 **A.** Yes. While interstate pipeline transportation costs are recovered through the
4 PGA, there are no specific components for pipeline reservation fees, storage
5 fees, storage injection fees, storage withdrawal fees, or the firm
6 transportation charges.

7 **Q.** Is there a provision in the PGA Rule for modifying the formulas?

8 **A.** Yes. Rule 1220-4-7-.03(1)(a)4 Modification of Formulas, provides :

9 The formulas set forth above are not designed for use with two-
10 part demand/commodity rate schedules; however, the formulas
11 may be modified from time to time to carry out the intent of
12 these PGA Rules. Any proposed modification to the formulas
13 shall contain a proposed effective date. The Commission may
14 suspend the modification within thirty (30) days of filing, in
15 which case the proposed modification shall be subject to notice
16 and hearing; other wise, the modification to the formula shall be
17 effective on the proposed effective date.

18 The rule specifically provides that in order to carry out the intent of the rule
19 the formulas may be modified.

21 **Q.** If it were necessary to modify the formulas in the Rule in order to
22 recover all of the Gas Costs, then the TRA could modify the formulas
23 pursuant to the Rule.

24 **A.** Yes.

25 **Q.** Have the formulas been modified in the past?

1 A. Yes. For example, Chattanooga has a two-part rate for firm industrial
2 customers. The formulas have been modified to reflect the approved rate
3 structure.

4 **Q. How long after the current rule language was adopted, was the**
5 **formula modified to deal with Chattanooga's two-part rate for firm**
6 **industrial customers?**

7 A. The formula had to be modified immediately. Chattanooga Gas Company's
8 two-part rate design pre-dates the adoption of the revised wording in 1990.

9 **Q. Is it necessary to modify the formula to allow for the recover of**
10 **uncollected gas cost included in customers' uncollected accounts?**

11 A. No. It isn't necessary to modify the formula. As stated above, the TRA
12 allowed recovery of the gas costs portion of the uncollectible debt in Docket
13 No. 01-00802 through the PGA Rules without modifying the PGA formulas.
14 The un-recovered gas cost remaining in the Deferred Gas Cost account is
15 subject to recovery through the Actual Cost Adjustment. By including the
16 gas portion of the uncollected gas cost in the Deferred Gas Cost account, the
17 uncollected gas cost would be recovered.

18 **Q. Has the TRA allowed a local distribution company to include in the**
19 **amount to be recovered through the PGA/ACA mechanism expense**
20 **that is not recorded as purchased gas costs in accordance with the**
21 **NARUC Uniform System of Accounts (SOA)?**

22 A. Yes. I am aware of such recoveries on several occasions.

956762.5

1 **Q. Could you identify some of those occasions?**

2 A. The largest item of which I am aware is the recover of the liquefied natural
3 gas (LNG) power cost through the PGA/ACA mechanism. In previous rate
4 cases, the cost of the electrical power used to liquefy natural gas had been
5 included as an operating expense recovered through the utility's base rates.
6 In Nashville Gas Company's rate case in docket 99-00994, this electrical
7 power cost was moved from base rates and added to the cost of gas used to
8 compute the PGA/ACA.

9 **Q. What is the nature of this cost?**

10 A. This is the electric power expense incurred by Nashville Gas in the
11 converting and storing natural gas as a liquid.

12 **Q. Is this cost recorded as purchased gas cost in accordance with the**
13 **Uniform System of Accounts ("USOA")?**

14 A. No. This cost is recorded as electrical power expense and not included as
15 purchase gas costs in accordance with the USOA.

16 **Q. Did the Consumer Advocate agree that electrical power expense can**
17 **be included in the computation of the PGA/ACA?**

18 A. Yes. On May 18, 2000 Mr. Daniel W. McCormac signed a sworn affidavit
19 that was filed in Docket 99-00994. In that affidavit he stated:

20 "That the CAD agreed to recommend the removal of liquefied
21 natural gas (LNG) power cost from the cost of local distribution
22 service and to allow recovery of prudently incurred LNG power
23 costs through the commodity gas surcharge element of the

1 TRA's Purchased Gas Adjustment Rule 1220-4-7-.03. The CAD
2 believes this cost can be properly included as cost of gas."
3

4 **Q. What was the amount of this electric power cost that was moved**
5 **from base rates put into the PGA?**

6 A. In docket 99-00994 the value was between \$556,000 and \$814,000. The
7 Company and the CAD could not agree on the amount to be included in base
8 rates. As a result it was proposed that the cost be treated as gas costs and
9 included in the PGA/ACA mechanism. By doing so, the customers were
10 protected from being over charged and the Company was allowed to timely
11 recover the power cost.

12 **Q. It is correct that this adjustment was not a separate rider or**
13 **mechanism that was implemented to provide for recovery of the**
14 **electrical power expense?**

15 A. Yes. It was agreed that this cost would flow through the PGA. Although over
16 the years mechanisms have been put in place to handle issues such as the
17 Sales Adjustment Mechanism that was put in place for Chattanooga that
18 handles issues that were not resolved during the rate case, the CAD and the
19 parties to the case agreed that this cost would flow through the PGA.

20 **Q. Did the TRA undertake rulemaking in order to allow for recover**
21 **electrical power expense through the Purchased Gas Adjustment?**

22 A. No.

1 **Q.** Did the company, the CAD, or any other party propose to modify the
2 formula in order to recover this cost through the PGA/ACA
3 mechanism?

4 **A.** No. No modification was necessary.

5 **Q.** Have there been other instances when the TRA provided for cost not
6 specifically identified gas costs in the PGA rule to be recovered
7 through the PGA/ACA?

8 **A.** Yes. In each of Chattanooga Gas Company's Weather Normalization Audits
9 since 2000, the under collections have been added to the gas costs and
10 recovered through the PGA/ACA mechanism?

11 **Q.** Did these require a modification of the PGA/ACA formula?

12 **A.** No. The amount to be recovered was simply added to the deferred gas cost
13 and the ACA was computed using the traditional formula as modified for the
14 use of the two-part rate design.

15 **FURTHER AFFIANT SAITH NOT.**

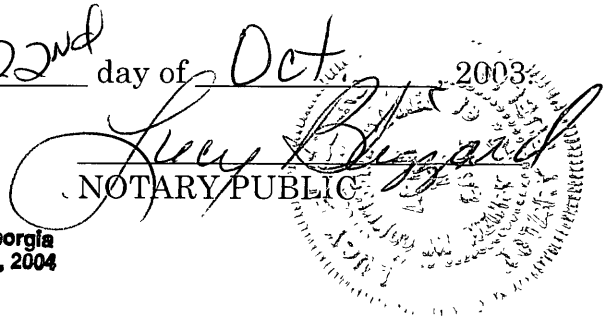
Archie R. Hickerson

ARCHIE R. HICKERSON

State of Georgia

County of HENRY

Sworn and subscribed before me this 22nd day of Oct. 2003



My Commission expires: Lucy Blizzard
Notary Public, Henry County, Georgia
My Commission Expires April 16, 2004

EXHIBIT A
TO AFFIDAVIT OF ARCHIE R. HICKERSON

Exhibit A

Archie R. Hickerson Educational Backgrounds and Professional Experience

Education

BS from Austin Peay State University –

December 1967 Major in mathematics

December 1974 Completed the requirements for a major in
accounting

Professional Designation

Certified Public Accountant in the State of Tennessee.

Professional Experience:

- **AGL Services Company, Atlanta, Georgia**
 - Manager-Rates, September 2000 to present

Duties include, among others, the preparation and maintenance of Chattanooga Gas Company's and Atlanta Gas Light Company's Tariffs, the preparation and filing of changes in the purchased gas adjustments (PGAs) on behalf of Chattanooga Gas Company, the review and filing of actual cost adjustments (ACAs) on behalf of Chattanooga Gas Company, the preparation/review of responses to ACA audit findings on behalf of Chattanooga Gas Company, the preparation/review of responses to weather normalization adjustments (WNA) audits on behalf of Chattanooga Gas, and the preparation/review of data and discovery requests issued by the Tennessee Regulatory Authority (TRA) and the Consumer Advocate and Protection Division.

- **Office of the Attorney General and Reporter State of Tennessee –Consumer Advocate Division**
 - Director of the Consumer Advocate Division Staff July 1994 - August 2000

As the Director of the Consumer Advocate Division Staff, duties included appearance as an expert witness on utility cost of service, cost allocation, and rate design; supervision of the technical staff members who also prepared and presented testimony on behalf of the Office of the Attorney General and Reporter in proceeding before the Tennessee Public Service Commission (TPSC) and the TRA; preparation and presented of comments in rulemaking proceedings before the TPSC and the TRA and serving on the National Association of State Utility Consumer Advocates (NASUCA) Accounting and Tax Committee, and as an observer member of the NARUC Subcommittee on Accounts.

- **Tennessee Public Service Commission**

- **Deputy Director – Utility Rate Division January 1987 - June 1994**

Duties included the supervision of the employees who conducted compliance and management audits, and earning and rate investigations of utilities regulated by the Tennessee Public Service Commission; appearance as an expert witness on behalf of the Commission staff on utilities' cost of service and rate design; participation in the development of the Commission's administrative rules and regulations, the preparation of filings and comments that were filed before federal agencies; and serving as served as a member of the National Association of Regulatory Utility Commissioners (NARUC) Staff Subcommittee on Communications, the NARUC Staff Subcommittee on Accounts, and the Southern Accounting Taskforce.

- **Assistant Director – Accounting Division November 1982- December 1986**

Duties included the supervision of the employees who conducted compliance audits of utilities, and conducted earning and rate investigations of utilities regulated by the Tennessee Public Service Commission; the appearance as an expert witness on behalf of the Commission staff on utility cost of service and rate design; the participation in the development of the Commission's administrative rules and regulations, the preparation of filings and comments that were filed before federal agencies.; and serving as a member of the National

Association of Regulatory Utility Commissioners' (NARUC) Staff Subcommittee on Communications.

- **Financial Analyst – June 1976- October 1982**

Duties included auditing the books and records, and analyzing cost of providing service of utilities regulated by the Tennessee Public Service Commission; the development of financial exhibits, and the presentation of testimony sponsoring these exhibits in rate proceedings before the Commission

- **Office of Comptroller of the Treasure-State of Tennessee**

- **Auditor, December 1974- May 1976**

Duties included the auditing of, and the establishment of reimbursement for and auditing hospitals and nursing homes providing service under the Medicaid program in Tennessee.

Exhibit 3

Dockets containing examples of costs that were recovered through the PGA

Docket 00-0618	9/15/00	Chattanooga Gas Weather Normalization Adjustment Audit 11/1/99-4/30/00	\$8,828
Docket 01-00591	11/14/01	Chattanooga Gas Weather Normalization Adjustment Audit 11/1/00-4/30/01	\$66,159
Docket 02-00797	12/2/02	Chattanooga Gas Weather Normalization Adjustment Audit 11/1/01-4/30/02 (Dan McCormac was Chief of Energy and Water Division at the time of the Audit.)	\$4,046
Docket 03-00373	8/5/03	Chattanooga Gas Weather Normalization Adjustment Audit 11/1/02-4/30/03	\$15,972
Docket 99-00994	7/18/00	In a Nashville Gas rate case, the CAPD agreed that liquefying natural gas ("LNG") Power Cost was properly recoverable through the PGA mechanism. LNG Power is electrical power used in the process of liquefying natural gas. The TRA approved the inclusion of this cost in the ACA.	\$556,000 to \$814,000

Exhibit 4

Affidavit of Daniel McCormac


AFFIDAVIT OF DANIEL W. MCCORMAC

Comes the affiant, Daniel W. McCormac, Senior Regulatory Analyst, Consumer Advocate Division Staff, Office of the Attorney General and Reporter for the State of Tennessee, after being duly sworn and deposes and says:

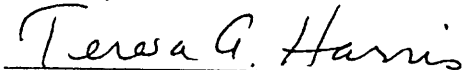
1. That I am a Certified Public Accountant licenced to practice in the State of Tennessee.
2. That the Consumer Advocate Division (CAD) conducted an extensive investigation of the financial operations of the Nashville Gas Company (NGC), a Division of Piedmont Natural Gas Company.
3. That I have substantial experience in the conduct of financial and regulatory investigations of Natural Gas companies and that I substantially participated in the investigation of the financial and regulatory operations of Nashville Gas Company on behalf of the CAD.
4. That the CAD attempted to estimate the cost of providing local distribution services to NGC's consumers for the twelve months ending May 31, 2001.
5. That the CAD's analysis showed significant differences from those presented by NGC in its December 30, 1999 petition for a rate increase of \$10,687,612.
6. That the CAD and NGC attempted to resolve those differences and to determine the just and reasonable rates required to fully cover NGC's local distribution service costs.
7. That the CAD agreed to recommend the removal of liquified natural gas (LNG) power costs from the cost of local distribution services and to allow recovery of prudently


incurred LNG power costs through the commodity gas surcharge element of the TRA's Purchased Gas Adjustment Rule 1220-4-7-.03. The CAD believes these costs can be properly included as a cost of gas.

8. That the CAD agreed to recommend approval of a settlement based on a rate base of \$235,725,376, an operating income under present rates of \$19,502,031, a required operating income of \$22,535,346, and a gross revenue conversion factor of 1.629900.
9. That this proposed settlement shows a deficiency in local distribution service rates and charges of \$4,944,000.
10. That this proposed settlement includes an agreement to seek the TRA's approval of the local distribution service rate design changes attached to the stipulation.
11. That the CAD agreed to support the proposed changes in the service regulations as revised and attached to the stipulation including an increase in the reconnect fee (charged only for reconnects after termination of service) from \$35 to \$50.
12. That the CAD agreed to present the proposed settlement to the Attorney General and Reporter with a recommendation of approval and the Attorney General and Reporter has approved the proposed settlement.


Daniel W. McCormac

Subscribed and sworn before me this the 18th day of May 2000.


Notary Public


Jan. 25, 2003